

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Michael Sherman,

Plaintiff,

v.

ORDER

Civil File No. 12-1806 (MJD/JJK)

Murad M. Mohammad,

Defendant.

Michael Sherman, pro se.

No appearance by Defendant.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Chief Magistrate Judge Arthur J. Boylan dated September 5, 2012. [Docket No. 4]

The Report and Recommendation recommends that this matter be dismissed without prejudice because, as of September 5, 2012, Plaintiff had failed to pay the required filing fee and had not offered any excuse for his failure to pay the filing fee. [Docket No. 4] On September 28, 2012, Plaintiff filed objections to the Report and Recommendation. [Docket No. 5] On October 3, 2012, Plaintiff

filed a letter with the Court stating that he intended to pay the required filing fee from his prisoner account with the Minnesota Department of Corrections.

[Docket No. 6] On October 17, 2012, Plaintiff paid the \$350.00 civil filing fee.

[Docket No. 7] Therefore, the issue as to whether Plaintiff paid the required filing fee is now moot.

Pursuant to statute, the Court has conducted a de novo review upon the record of the Chief Magistrate Judge's disposition. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court declines to adopt the Report and Recommendation of United States Chief Magistrate Judge Boylan dated September 5, 2012.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

The Court **DECLINES TO ADOPT** the Report and Recommendation of United States Chief Magistrate Judge Arthur J. Boylan dated September 5, 2012 [Docket No. 4].

Dated: November 29, 2012

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court